

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BURTON P. GOLB	§	
VS.	§	CIVIL ACTION NO. 1:09CV7
M. MARTIN	§	

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Petitioner, Burton P. Golb, a former inmate at the Federal Correctional Institution (Low) in Beaumont, Texas, proceeding *pro se*, filed these proceedings pursuant to 28 U.S.C. § 2241. Respondent filed a motion to dismiss asserting petitioner's application should be rendered moot as petitioner was released from custody on October 29, 2010.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends the motion to dismiss be denied as the court's jurisdiction continues over a habeas petition filed at the time a petitioner is incarcerated pursuant to a conviction he attacks, even if the petitioner has been released from physical custody before the application is finally adjudicated.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. No objections to the Report and Recommendation have been filed to date.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Furthermore, it is hereby, **ORDERED** that Respondent has thirty days in which to file an answer or otherwise respond on

the merits of this case.

So **ORDERED** and **SIGNED** this **8** day of **March, 2011**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge